REMARKS

This paper is in response to the Final Office Action dated September 27, 2004. Accordingly, this response is timely.

Claims in the Application.

Claims 1-20 are pending in this Application. Claims 1-3, 7, 12, 14, 16, and 18-20 have been rejected. Claims 4-6, 8-11, 13, 15, and 17 have been objected to. Claims 1-6 and 12-14 have been amended. Claim 15 has been canceled. The Applicants respectfully request an allowance of the claims as amended.

Rejection under 35 U.S.C. § 103(a).

The Examiner has rejected Claims 1-3, 7, 1, 14, 16, and 189-20 have been rejected under 35 U.S.C. § 103(a) in light of U.S. Patent No. 5,388,960 ("Suzuki") in view of U.S. Patent No. 6,487,863 ("*Chen*"). To properly reject a claim under Section 103, the Examiner must view the claimed invention as a whole. *See, e.g., Hartness Int'l Inc. v. Simplimatic Eng'g Co.*, 819 F.2d 1100, 1108 (Fed. Cir. 1987); *see also In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (holding that "[i]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious."). A prior art reference may be considered to teach away when "a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994).

In addition to remarks made in response to the July 21, 2004 Amendment and Response to the April 1, 2004 Office Action, Applicants have amended the claims to emphasize the advantage of using the flow of nitrogen in the hot reheat line. The Examiner has noted this distinction in the remarks regarding the objected to claims.

However, Applicants respectfully traverse the Examiner's statement that "Though Chen specifically discloses a gas turbine, the high temperature components thereof are substantially the same as those of a steam turbine to one of ordinary skill in the art, and since Chen uses nitrogen to cool these components in much the same manner as Suzuki uses air to cool similar

components, it would be obvious to combine the teaching of Chen by adding nitrogen to the cooling system of Suzuki when necessarily motivated to cool the components at higher speeds while maintaining safety limits." Final Office Action dated September 27, 2004, p. 4. As previously noted, Chen specifically discounts the use nitrogen directly because:

> It is not practical to introduce the nitrogen directly into the compressed air plenum 32 surrounding the combustion and transition because that would substantially dilute the compressed air entering the combustion, which is necessary for the combustion process. However, the combustion shell can include a closed cooling path and the additional cooling leg 80 can be connected directly to that cooling path as well as to the transition and first stage so that the nitrogen would be introduced into the working gas downstream of the combustion zone in the combustion 34.

Chen, Col. 4, ll. 56-66. *Chen*'s teaching teaches away from the invention by as claimed and cannot cure the deficiencies of *Suzuki* and reconsideration is respectfully requested.

CONCLUSION

For the stated reasons, reconsideration is respectfully requested. Though the Applicants do not believe that any fee is necessary, the Commissioner is hereby authorized to charge or credit the Deposit Account No. 12-1322 of Locke Liddell & Sapp LLP under Order No. 020569-01900. In light of the foregoing remarks, the claims of the application have been distinguished over the cited references. The Examiner is requested to contact the undersigned at (713) 226-1218 should he deem it necessary to advance the prosecution of this application.

Respectfully submitted,

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